



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 8, 1996

Ms. Vicki D. Blanton
Assistant City Attorney
City of Dallas
Criminal Law and Police Division
Municipal Building
Dallas, Texas 75201

OR96-2061

Dear Ms. Blanton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101640.

The City of Dallas Police Department (the "department"), which your office represents, received a request for a variety of information associated with a particular automobile collision, referenced as Dallas Police Service number 0636088-E. You submitted to this office for review, in response to the request, a department motor vehicle accident report and documents related to the incident investigation and report.¹ You assert that the information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submissions at issue.

We note initially that among the documents you seek to withhold is an accident report form. See Transp. Code § 550.064 (officer's accident report). Release of the accident report is governed by House Bill 391, which places certain restrictions on the general public's access to "all *accident reports* made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h]." Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413 (Vernon) (emphasis added). The Seventy Fourth Legislature,

¹To the extent that this request encompasses an autopsy, we note that autopsy reports are expressly made public by the Code of Criminal Procedure. Code Crim. Proc. art. 49.25, § 11.

without reference to the repeal and codification of V.T.C.S. article 6701d,² amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) provides that:

The Department or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

....

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (I) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

Id. (emphasis added). Under this provision, the department "is required to release" a copy of an accident report to a person who provides the department with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor provided the department with the date of the accident and the name of a person involved in the accident. Thus, you are required to release this information under section 47(b)(1)(D) of article 6701d, V.T.C.S. Although you have raised section 552.108 of the Government Code as an exception to disclosure, the Open Records Act's exceptions do not, as a general rule, apply when the release of information is expressly controlled by other statutes. Open Records Decision No. 525 (1989) at 3. We conclude that the accident report, in its entirety, must be released to the requestor.

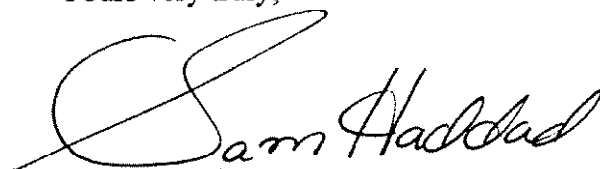
²Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71. See Trans. Code § 550.065 (release of accident reports). The legislature did not intend a substantive change of the law but merely a re-codification of existing law. *Id.* § 25, 1995 Tex. Sess. Law Serv. at 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S., in House Bill 391, remains in effect as current law and may be found following section 550.065 of the Transportation Code. See also Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413, 4414.

We now address the applicability of section 552.108 to the remaining documents at issue. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Since the remaining records at issue come within the purview of section 552.108, we conclude that most of the information at issue may be withheld under this section.

We note, however, that information normally found on the front page of an offense report is generally considered public.³ *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, the department must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the report. Therefore, except for front page offense report information, section 552.108 of the Government Code excepts the incident investigation records from required public disclosure. Although section 552.108 authorizes the department to withhold the remaining information from disclosure, the department may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is stylized with a large, looping initial "S" and a cursive "Haddad".

Sam Haddad
Assistant Attorney General
Open Records Division

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³The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*. For your convenience, we have attached a list of the types of information the department must release from the submitted incident report.

Ref.: ID# 101640

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)

cc: Ms. Nola Kilgore
330 W. Washington
Meridian, Idaho 83642
(w/ Summary of Open Records Decision No. 127 (1976))